

012. P7011

Patent

### REMARKS

Claims 2, 8, 9, 16 and 23 are amended. No claims are added or cancelled.

Claims 1 – 11 and 13 – 28 are pending.

The Examiner rejected claims 2, 9, 16 and 23 under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the Examiner indicates that use of the phrase "at least one of" in combination with the expression "and/or" makes these claims indefinite. Assignee has amended these claims to replace the phrase "comprises at least one of" with the phrase - - is [are] selected from a group consisting - -. Accordingly, Assignee respectfully submits that these claims now particularly point out and distinctly claim the intended subject matter.

The Examiner has allowed claims 1, 3 – 7, 15, 17 – 22 and 24 – 28 .  
Additionally, the Examiner has determined that 2, 16 and 23 would be allowable if amended to overcome the rejection under 35 U.S.C. § 112, second paragraph, discussed above. Assignee thanks the Examiner for prompt disposition of these claims.

The Examiner has rejected claim 8 as being obvious in view of U.S. Patent Nos. 6,505,033 to Shinozaki (the "'033 patent") and 6,757,837 to Pratt et al. (the "'837 patent") under 35 U.S.C. § 103(a). This rejection is respectfully traversed.

The '033 patent appears to show an indoor unit 1 comprising a ROM 5 and an outdoor unit 2 comprising a ROM 6. A transmission control unit 7 compares contents of ROM 5 with those of ROM 6. ['033 patent, col. 3, ll. 46 – 56]

012. P7011

Patent

Assignee respectfully submits that claim 8 distinguishes over the cited references by reciting, *inter alia*:

an outdoor unit comprising software instructions stored in a memory, the memory comprising ***memory partitions***; . . . and

first instructions within the indoor unit for detecting a failure in the outdoor unit, ***determining one or more locations of one or more of the memory partitions*** in the memory and, responsive to said failure, storing new software instructions to the memory in said outdoor unit ***based, at least in part, on said one or more locations***.

Accordingly, the applicants respectfully submit that claim 8, and claims 9 – 11, 13 and 14 depending therefrom, distinguish over the '033 patent.

The '837 patent appears to show a server modem 101 that is capable of responding to software failures at a client computer 100. Upon detection of such a failure server modem 101 may act to repair software on client computer 100. However, the '837 patent does not appear to disclose, suggest or make obvious determining locations of memory partitions and storing new software instructions based, at least in part, on said one or more locations. Assignee respectfully submits that the '837 patent does not make up for the deficiencies of the '033 patent in meeting the limitations of claim 8. Accordingly, Assignee respectfully submits that claim 8, and claims 9 – 11, 13 and 14 depending therefrom, distinguish over the combination of the '033 and '837 patents.

012. P7011

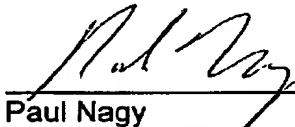
Patent

In view of the foregoing amendments and remarks, the applicants respectfully submit that this application is in condition for allowance. However, if the Examiner finds an reason why this application is not in condition for allowance, the applicants request to contact the undersigned attorney by telephone at (310) 541-7832 to discuss the application.

Respectfully submitted,

Berkeley Law and Technology Group, LLC

Dated:

Oct. 12, 2005  
\_\_\_\_\_  
Paul Nagy  
Reg. No. 37,896

1700 NW 167<sup>th</sup> Place  
Suite 240  
Beaverton, OR 97006  
(503) 439.6500